

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SMITH & HAWKEN, LTD.,

No. C 04-1664 SBA (MEJ)

Plaintiff(s),

vs.

**ORDER FOR FURTHER BRIEFING
RE: PLAINTIFF'S MOTION FOR
ATTORNEY FEES AND SANCTIONS**

GARDENDANCE, INC., et al.,

Defendant(s).

On December 1, 2005, the Court held a hearing regarding Plaintiff's motion for attorney fees and sanctions. Pursuant to discussions at the hearing, the Court hereby ORDERS as follows:

- 1) Defendants' counsel, Joel Joseph, shall file a declaration no later than December 15, 2005 in which he attests under penalty of perjury as to whether each counterclaim filed in this matter complies with the requirements of Federal Rule of Civil Procedure 11(b). Thus, Mr. Joseph shall separately list each counterclaim filed in this matter and, for each counterclaim, specifically address the elements in FRCP 11(b)(1-4). Mr. Joseph shall be careful not to discuss any counterclaims together in generalities; instead, he shall address each element for each counterclaim. Further, Mr. Joseph shall not make any legal arguments as they could have been made in his opposition; rather, Mr. Joseph shall address only the factual contentions of the counterclaims for each element listed in FRCP 11(b)(1-4); and

2) No later than December 15, 2005, Plaintiff shall file a declaration detailing the \$7,500 fee request in connection with its attorney fee motion. For the convenience of the Court, Plaintiff shall provide the information in chart format, first with the \$7,500 fee request separate, and then provide a second chart with the total fee request for its motion.

Upon review of the parties' submissions, the Court shall determine whether any further briefing or hearing is necessary, or deem the matter submitted.

IT IS SO ORDERED.

Dated: December 1, 2005



MARIA-ELENA JAMES
United States Magistrate Judge